

✧ Constitutionality of Door-to-Door Solicitation Bylaw Questioned

By SUSANNA SHEEHAN

Duxbury's town counsel plans to review a claim from an Indiana magazine subscription company that its door-to-door solicitors are not governed by the town's solicitation bylaw.

Earlier this month, American Community Service of Michigan City, Indiana, informed Duxbury police that its representatives would be canvassing the town for magazine subscriptions. It also included a memo regarding the legal rights of solicitors and interstate commerce.

The company claimed in the memo that because its representatives are from another state selling magazines, the town's

bylaw cannot apply to interstate commerce, which is protected by Article 1, Section VIII of the United States Constitution. The memo states this part of the Constitution gives Congress the power to regulate commerce with foreign nations and among the several states, and that since Congress has this power, efforts by states to restrict free trade between states are unconstitutional.

Any local laws that require solicitors obtain a license, permit, make out an application or pay a fee before beginning to canvass subscriptions "for a magazine published and shipped from without the state wherein the subscriptions are

solicited, are unconstitutional and invalid," states the memo from American Community Service.

Duxbury town meeting adopted a door-to-door solicitation bylaw in 2000. It contains strict guidelines that includes informing the police of solicitors' intentions and requiring solicitors to apply for a license from the police chief and undergo background checks. Also, applicants must provide such information as their names, addresses, telephone numbers, dates of birth, social security numbers, business information, vehicle registration

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numbers, make and model and proof of automobile insurance. The solicitor must also wear an identity badge and must personally report to the police station before soliciting. They must also advise police of their location, times and identity of their vehicles. The license can be revoked by the police chief or selectmen. This bylaw was approved by the Massachusetts attorney general in May, 2000.

Duxbury's town counsel, Robert Troy plans to review the memo and the Constitutionality claims from American Community Service and make a legal opinion for the town, said Town Manager Rocco Longo.

"We probably should get a legal opinion," Longo told selectmen. "It's a federal issue."

"The point is there may be a different set of standards for companies from different states," said Duxbury police chief Mark DeLuca. He added that the representatives from American Community Service "have been very pleasant from the start" and have abided by the town's laws. They have not been confrontational, said

DeLuca.

He noted, however, that two of the companies representatives were arrested for things unrelated to selling magazine subscriptions. One for a motor vehicle violation and one for a warrant, said DeLuca.

Tremont St. resident Sandy White, the citizen who proposed the solicitation by-law, said that two representatives from this company were arrested in July 1999 for breaking and entering in Duxbury.

Following the meeting on Tuesday, White said, "An individual's only recourse is to refuse to buy magazines from door-to-door salesmen and based upon their sales in town, the companies will determine whether or not there is enough of a market here to return year after year. If we welcome these solicitors into our homes (with or without our permission) and buy their products, then they will surely accept our open invitation to return to our homes (with or without our permission) each summer. I know that I will be calling the police the minute that they knock on my door."